

I hereby certify that this correspondence is being filed via  
EFS-Web with the United States Patent and Trademark Office  
on October 19, 2006.

PATENT  
Attorney Docket No.: 016354-005213US

TOWNSEND and TOWNSEND and CREW LLP

By: /connie larson/  
Connie Larson

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of:

Keith G. Lurie et al.

Application No.: 10/796,875

Filed: March 8, 2004

For: VENTILATOR AND METHODS  
FOR TREATING HEAD TRAUMA  
AND LOW BLOOD CIRCULATION

Customer No.: 20350

Confirmation No. 2670

Examiner: Nahir B. Patel

Technology Center/Art Unit: 1614

COMMUNICATION

Mail Stop AF  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

In connection with the above-referenced application, Terminal Disclaimers were inadvertently omitted from the Amendment after Final filed on June 21, 2006. Applicants Attorney spoke with Examiner Patel on October 19, 2006. Examiner Patel stated that if Terminal Disclaimers were submitted before October 21, 2006, the application would not go abandoned and we would not need to file an RCE. Attached to this Communication are two Terminal Disclaimers and a one month Petition for Extension of Time.

Respectfully submitted,

/darin j gibby/  
Darin J. Gibby  
Reg. No. 38,464

TOWNSEND and TOWNSEND and CREW LLP  
Two Embarcadero Center, Eighth Floor  
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60893932 v1

**TERMINAL DISCLAIMER TO OBVIATE A DOUBLE PATENTING  
REJECTION OVER A "PRIOR" PATENT**

Docket Number (Optional)  
016354-005213US

In re Application of: Keith G. Lurie

Application No.: 10/796,875

Filed: March 8, 2004

For: VENTILATORY AND METHODS FOR TREATING HEAD TRAUMA AND LOW BLOOD CIRCULATION

The owner\*, Advanced Circulatory Systems, Inc., of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term prior patent No. 6,938,618 as the term of said prior patent is defined in 35 U.S.C. 154 and 173, and as the term of said prior patent is presently shortened by any terminal disclaimer. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of the term of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of the prior patent, "as the term of said prior patent is presently shortened by any terminal disclaimer," in the event that said prior patent later:

- expires for failure to pay a maintenance fee;
- is held unenforceable;
- is found invalid by a court of competent jurisdiction;
- is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321;
- has all claims canceled by a reexamination certificate;
- is reissued; or
- is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

Check either box 1 or 2 below, if appropriate.

1. ☐ For submissions on behalf of a business/organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the business/organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. ☒ The undersigned is an attorney or agent of record. Reg. No. 38,464.

\_\_\_\_\_  
/darin j gibby/  
Signature

\_\_\_\_\_  
October 19, 2006  
Date

\_\_\_\_\_  
Darin J. Gibby  
Typed or printed name

\_\_\_\_\_  
(303) 571-4000  
Telephone Number

- ☒ Terminal disclaimer fee under 37 CFR 1.20(d) is included.

**WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**

\*Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner).  
Form PTO/SB/96 may be used for making this certification. See MPEP § 324.

**TERMINAL DISCLAIMER TO OBVIATE A PROVISIONAL DOUBLE PATENTING  
REJECTION OVER A PENDING "REFERENCE" APPLICATION**Docket Number (Optional)  
016354-005213US

In re Application of: Keith G. Lurie

Application No.: 10/796,875

Filed: March 8, 2004

For: VENTILATOR AND METHODS FOR TREATING HEAD TRAUMA AND LOW BLOOD CIRCULATION

The owner\*, Advanced Circulatory Systems, Inc., of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term of any patent granted on pending reference Application Number 10/660,462, filed on September 11, 2003, as such term is defined in 35 U.S.C. 154 and 173, and as the term of any patent granted on said reference application may be shortened by any terminal disclaimer filed prior to the grant of any patent on pending reference application. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and any patent granted on the reference application are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of any patent granted on said reference application, "as the term of any patent granted on said reference application may be shortened by any terminal disclaimer filed prior to the grant of any patent on the pending reference application," in the event that: any such patent: granted on the pending reference application: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as shortened by any terminal disclaimer filed prior to its grant.

Check either box 1 or 2 below, if appropriate.

1. ☐ For submissions on behalf of a business/organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the business/organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. ☒ The undersigned is an attorney or agent of record. Reg. No. 38,464.

\_\_\_\_\_  
/darin j gibby/  
Signature

\_\_\_\_\_  
October 19, 2006  
Date

\_\_\_\_\_  
Darin J. Gibby  
Typed or printed name

\_\_\_\_\_  
(303) 571-4000  
Telephone Number

- ☒ Terminal disclaimer fee under 37 CFR 1.20(d) is included.

**WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**

\*Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner).  
Form PTO/SB/96 may be used for making this certification. See MPEP § 324.

**PETITION FOR EXTENSION OF TIME UNDER 37 CFR 1.136(a)**

Docket Number (Optional) 016354-005213US

**FY 2006***(Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).)*

Application Number 10/796,875

Filed March 8, 2004

For VENTILATOR AND METHODS FOR TREATING HEAD TRAUMA  
AND LOW BLOOD CIRCULATION

Art Unit 1614

Examiner Nahir B. Patel

This is a request under the provisions of 37 CFR 1.136(a) to extend the period for filing a reply in the above identified application.

The requested extension and fee are as follows (check time period desired and enter the appropriate fee below):

	<u>Fee</u>	<u>Small Entity Fee</u>	
<input checked="" type="checkbox"/> One month (37 CFR 1.17(a)(1))	\$120	\$60	\$ <u>60</u>
<input type="checkbox"/> Two months (37 CFR 1.17(a)(2))	\$450	\$225	\$ _____
<input type="checkbox"/> Three months (37 CFR 1.17(a)(3))	\$1020	\$510	\$ _____
<input type="checkbox"/> Four months (37 CFR 1.17(a)(4))	\$1590	\$795	\$ _____
<input type="checkbox"/> Five months (37 CFR 1.17(a)(5))	\$2160	\$1080	\$ _____

☒ Applicant claims small entity status. See 37 CFR 1.27.

☐ A check in the amount of the fee is enclosed.

☐ Payment by credit card. Form PTO-2038 is attached.

☒ The Director has already been authorized to charge fees in this application to a Deposit Account.

☒ The Director is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account Number 20-1430. I have enclosed a duplicate copy of this sheet.

**WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**

I am the ☐ applicant/inventor.

☐ assignee of record of the entire interest. See 37 CFR 3.71.  
Statement under 37 CFR 3.73(b) is enclosed (Form PTO/SB/96).

☒ attorney or agent of record. Registration Number 38,464

☐ attorney or agent under 37 CFR 1.34.  
Registration number if acting under 37 CFR 1.34 \_\_\_\_\_

/darin j gibby/

Signature

October 19, 2006

Date

Darin J. Gibby, Reg. No. 38,464

Typed or printed name

(303) 571-4000

Telephone Number

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.

☐ Total of \_\_\_\_\_ forms are submitted.

## Electronic Acknowledgement Receipt

<b>EFS ID:</b>	1263883
<b>Application Number:</b>	10796875
<b>International Application Number:</b>	
<b>Confirmation Number:</b>	2670
<b>Title of Invention:</b>	Ventilator and methods for treating head trauma and low blood circulation
<b>First Named Inventor/Applicant Name:</b>	Keith G. Lurie
<b>Customer Number:</b>	20350
<b>Filer:</b>	Darin J. Gibby/Connie Larson
<b>Filer Authorized By:</b>	Darin J. Gibby
<b>Attorney Docket Number:</b>	016354-005213US
<b>Receipt Date:</b>	19-OCT-2006
<b>Filing Date:</b>	08-MAR-2004
<b>Time Stamp:</b>	19:55:59
<b>Application Type:</b>	Utility

### Payment information:

Submitted with Payment	yes
Payment was successfully received in RAM	\$ 130
RAM confirmation Number	749
Deposit Account	201430
The Director of the USPTO is hereby authorized to charge indicated fees and credit any overpayment as follows: Charge any Additional Fees required under 37 C.F.R. Section 1.16 and 1.17	

### File Listing:

Document Number	Document Description	File Name	File Size(Bytes)	Multi Part /.zip	Pages (if appl.)		
1		016354_005213_comm.pdf	204884	yes	4		
	<b>Multipart Description/PDF files in .zip description</b>						
	<b>Document Description</b>		<b>Start</b>	<b>End</b>			
	Transmittal letter		1	1			
	Terminal Disclaimer Filed		2	2			
	Terminal Disclaimer Filed		3	3			
	Extension of Time		4	4			
<b>Warnings:</b>							
<b>Information:</b>							
2	Fee Worksheet (PTO-875)	fee-info.pdf	8171	no	2		
<b>Warnings:</b>							
<b>Information:</b>							
<b>Total Files Size (in bytes):</b>			213055				
<p><b>This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503.</b></p> <p><b><u>New Applications Under 35 U.S.C. 111</u></b>  If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.</p> <p><b><u>National Stage of an International Application under 35 U.S.C. 371</u></b>  If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.</p>							